

R E M A R K S

Claims 17 to 26, 80, 86 to 87 are pending in the present application.

Claims 17, 80, 86, 87 are independent.

Section 103(a) Rejections

All claims are rejected as being unpatentable over a combination of Fraser (WO 97/08638), West (U.S. Patent No. 5,845,259) and now Jones (U.S. Patent No. 5,832,458). Applicants respectfully traverse the Examiner's Section 103(a) rejection.

The references, alone or in combination, do not disclose or suggest:

transmitting said transaction data to a remote server of a manufacturer during a transaction session for determination of a possible substitute product to be offered to said consumer

West, like Fraser and Jones, does not address the ability of a manufacturer to determine a possible substitute product to be offered to a consumer during a transaction session.

The newly cited Jones reference is intended to ensure the accurate and timely settlement between manufacturers and the retailers of their products when the manufacturer issues coupons or when the manufacturer agrees to a temporary price reduction in return for retailer support that should lead to increased sales volumes. (col. 4, lines 60 – 67) Jones describes that coupons are normally redeemed by manufacturers of the goods to which the coupons relate. Manufacturers reimburse the retail stores accepting the coupons. (col. 3, lines 30 – 33.) The Jones system conducts an electronic audit for use by manufacturers during settlement. (col. 3, lines 45 – 49) The electronic audit of coupon redemption has safeguards against deliberate or inadvertent misredemption. (col. 4, lines 14 – 17)

Accordingly, Jones has nothing to do with, inter alia, determining possible substitute products.

No Motivation to Combine

Absent hindsight, there is no motivation to combine the references in the manner proposed.

As best as Applicants may ascertain, the stated motivation to select and incorporate portions of the West reference is that West “discloses a point of sale including a terminal having a data reader transaction data [sic], a remote retailer and manufacturer or remote server retailer manufacturer coupon redemption [sic],” and that the combination of West and Eraser would eliminate “the need for the manual collection of data transmission [sic].” (Office Action, page 3, last paragraph to page 4, first paragraph)

As best as Applicants may ascertain, the stated motivation to select and incorporate portions of the Jones reference is that Jones “discloses an audit system that is remotely located from the retail store for receiving processed retail sales transaction data for subsequent use by MANUFACTURER ... which is equivalent to Applicants arguments.” (Office Action, page 4, second paragraph)

Neither of the above statements from the Office Action amount to a motivation to select and combine the references in the manner proposed. Accordingly, the record does not show why one of ordinary skill at the time of the invention would have selected the references and combined them in the manner proposed.

Conclusion

For the foregoing reasons it is submitted that all of the claims are in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a **three-month** extension of time with which to respond to the Office Action. Please charge \$460.00 for this petition to our Deposit Account No. 50-0271.

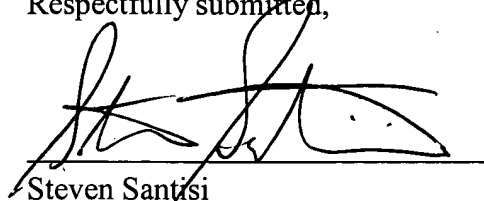
Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

September 9, 2002

Date

Respectfully submitted,



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